

PT 95-21  
Tax Type: PROPERTY TAX  
Issue: Religious Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
ADMINISTRATIVE HEARINGS DIVISION  
SPRINGFIELD, ILLINOIS

-----  
CHURCH OF CHRIST AT KEMP ) Docket No.(s) 94-21-9  
 )  
Applicant ) PI No.(s) 03-09-34-301-011  
 ) (Douglas County)  
 )  
v. )  
 )  
THE DEPARTMENT OF REVENUE ) George H. Nafziger  
OF THE STATE OF ILLINOIS ) Administrative Law Judge  
 )  
-----

RECOMMENDATION FOR DISPOSITION

SYNOPSIS The hearing in this matter was held at 101 West Jefferson Street, Springfield, Illinois, on April 3, 1995, to determine whether or not the Douglas County parcel here in issue should be exempt from real estate tax for the 1994 assessment year.

Is Applicant a religious organization? Did Applicant own the parcel here in issue during all of the 1994 assessment year? Did Applicant use the parcel here in issue for religious or church purposes during 1994? Following the submission of all of the evidence and a review of the record, it is determined that Applicant is a religious organization, and that it owned the parcel here in issue during all of 1994. It is also determined that Applicant used the parcel for religious and church purposes during all of 1994.

FINDINGS OF FACT The Department's position in this matter was established by the admission in evidence of Department's Exhibits 1 through 6B.

Rev. Dick Miller, pastor of Applicant, was present and testified on behalf of Applicant.

On July 13, 1994, the Douglas County Board of Review forwarded an Application for Property Tax Exemption To Board of Review, concerning the parcel here in issue for the 1994 assessment year to the Illinois Department of Revenue (Department's Exhibit 2). On December 30, 1994, the Department of Revenue notified Applicant that it was denying the exemption of the parcel here in issue for the 1994 assessment year (Department's Exhibit 3). On January 4, 1995, Applicant's pastor, Rev. Miller, requested a formal hearing in this matter (Department's Exhibit 4). The hearing held on April 3, 1995, was held pursuant to that request.

Applicant is a church with approximately 90 members, and an average attendance at Sunday worship services during 1994 of 90. During 1994, Applicant held worship services on Sunday mornings, Sunday evenings, and Wednesday evenings.

Applicant purchased this parcel at an auction, and received a warranty deed to said parcel on October 18, 1993. At the time Applicant acquired this parcel, there was an old delapidated house on it, and the lot was overgrown with brush. During the fall and early winter of 1993, Applicant demolished the house, cleared out the brush, and had the lot leveled. As soon as the weather permitted during the early spring of 1994, Applicant planted grass on this parcel. Later in the spring, Applicant placed some play equipment along the back of the parcel. Beginning with warm weather in the spring of 1994, the children of the church played on this lot after church on Sunday mornings, Sunday evenings, and Wednesday evenings. During the summer of 1994, Vacation Bible School activities were held on this parcel, as well as a youth rally. During 1994, this parcel was mowed by the person mowing the parsonage yard and church yard. The parsonage is next to the church, and this parcel is next to the parsonage, and is considered a part of the side yard of the parsonage.

1. Based on the foregoing, I find that Applicant is a religious

organization.

2. Applicant, I find, owned this parcel during all of 1994.

3. I find that Applicant, after acquiring the parcel here in issue during the fall of 1993, proceeded to demolish the house located thereon, and clean out the brush, and level the lot.

4. As soon as possible in the spring of 1994, Applicant planted grass on the lot.

5. I find that the children and youth of the church used this parcel during 1994, once the lawn was started, for recreational activities after church services, during Vacation Bible School, and at the youth rally.

6. Finally, I find that this parcel is now considered to be part of the side yard of the parsonage.

CONCLUSIONS OF LAW Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

"The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes."

35 ILCS 200/15-40 exempts certain property from taxation in part as follows:

"All property used exclusively for religious purposes, or used exclusively for school and religious purposes...and not leased or otherwise used with a view to profit, is exempt,...."

Applicant, I conclude, is a religious organization, which owned the parcel here in issue during all of 1994.

Illinois Courts have held property to be exempt from tax where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1977); and Weslin Properties, Inc. v.

Department of Revenue, 157 Ill.App.3d 580 (1987).

In view of the fact that Applicant demolished the house on this parcel during 1993, and also cleared the brush and leveled the lot during that year, and then in 1994, proceeded to plant grass on it, I conclude that from January 1, 1994, until there was a lawn started on this parcel, that Applicant was in the process of adapting said parcel for exempt use.

During the remainder of 1994, I conclude that Applicant used this parcel for religious or church purposes.

I therefore recommend that Douglas County parcel No. 03-09-34-301-011 be exempt from real estate tax for the 1994 assessment year.

Respectfully Submitted,

George H. Nafziger  
Administrative Law Judge

April , 1995